IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 675 of 1987

The Commissioner of Income Tax ... Applicant.

vs.

M/s. Garware Motors & Engineers ..... Respondent

Dr. P. Daniel for Applicant.
None for Respondent.

CORAM: V. C. DAGA AND A. S. AGUIAR JJ.

Date: 29th June, 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case, unabsorbed depreciation of Rs.1,31,468/- of M/s. Garware Plastics Pat. Ltd., (amalgamated company) could be set off against the income of M/s. Garware Motors & Engineers Pvt. Ltd., (amalgamating company) for Assessment Year 1977-78?"

2. Heard learned counsel for the applicant revenue. Perused reference proceedings.

3. The learned counsel for the revenue fairly drew our attention to

the instructions issued by the Central Board of Direct Taxes , New Delhi, dated 27th March, 2000 wherein monetary limit for the department for filing reference to the High Court earlier fixed for Rs.50,000/- came to be revised and fresh instructions are issued by the Board to file reference only in cases where tax effect exceeds Rs.2,00,000/-.

4. This Court in the case of **Commissioner of Income-tax v/s. Camco Colour Co.,** reported in ITR Vol. 254 (2002), page 565 ruled that the above instructions are binding on the Department.

5. The above instructions dated 27th March, 2000 reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigation before High Courts and Supreme Court. The circular is binding on the Revenue. There is no justification to proceed with the decades old references having negligible tax effect.

6. We, thus, do not think it necessary to answer the reference made to this Court for the Assessment Year 1977-78. Accordingly, reference stands returned unanswered with no order as to costs.

(A. S. AGUIAR J.) (V. C. DAGA J.)

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